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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed on December 4, 2003. In the Office Action, the Examiner noted that claims 1-33 are pending in the application and that claims 1-33 stand rejected. By this response claims 1-33 continue unamended.

In view of both the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, the Applicants believe that all of these claims are now in allowable form.

REJECTION OF CLAIMS UNDER 35 U.S.C. §103

A. Claims 1-5, 8-16, and 20-33

The Examiner has rejected claims 1-5, 8-16, and 20-33 under 35 U.S.C. §103 as being obvious over Schein et al. (U.S. Patent No. 6,268,501, issued July 17, 2001, hereinafter "Schein") in view of Zdepski et al. (U.S. Patent No. 6,006,256, issued December 21, 1999, hereinafter "Zdepski"). The Applicants respectfully traverse the rejection.

Applicants' independent claim 1 recites:

" A program guide for an interactive information distribution system having provider equipment and subscriber equipment comprising:
 a video layer of said program guide having at least one user selectable object, said video layer sent from said provider equipment to said subscriber equipment; and
 a graphics layer of said program guide, where the graphics layer selectively provides emphasis and de-emphasis of said at least one user selectable object in the video layer." (emphasis added).

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. *Jones v. Hardy*, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). The combination of the Schein and Zdepski references fails to teach the Applicants' invention as a whole.

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The Examiner contends that the Schein reference teaches a program guide for an interactive information distribution system. The Applicants contend that Schein does not disclose layers at all. Rather, Schein discloses a single image having primarily a graphics region and, optionally, an inset video region. The graphics region and video region do not operate as distinct layers; rather, the graphics and video regions are respective portions of a single layer.

A program guide according to the present invention comprises both a video layer and a graphics layer. The video layer includes various user selectable objects, which are provided with emphasis and deemphasis via graphics layer manipulation. In particular, "video information representative of each of the objects or elements previously identified (2005-2055) is generated at a central processing location or head end, and transmitted as part of a video stream." (See Applicants' specification, page 37, lines 18-21.) Each manipulable (i.e., user selectable) object or element is associated with a corresponding graphical overlay element (e.g., an x-y coordinate box or other element). The overlay element (by changing its opacity, color, look, and the like) selectively emphasizes or deemphasizes an object on the screen in response to manipulation of the remote control unit (see Applicants' specification, page 37, line 30 to page 38, line 4). Thus, the graphics layer of the Applicants' program guide overlays the video layer objects of the program guide, at least where such emphasis and deemphasis are to be provided to such video layer objects.

By contrast, the displayed imagery envisioned by the Schein arrangement is not layered imagery comprising video and graphics layers, as discussed in the instant application. Rather, the Schein arrangement utilizes screen regions to display graphics imagery and video imagery. The video imagery shown in Schein represents video content, such as a PPV movie, broadcasted television program, NVOD/VOD content, and the like. Such video imagery is not a part of the program guide. Specifically, there is no instance of video imagery displayed on a layer within the Schein arrangement wherein a graphics layer disposed thereover is used to perform any modifications to video layer imagery. In fact, the term "layer" is not present within the Schein patent, thereby further evidencing Applicants' contention that Schein does not disclose or

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suggest the layers of the present invention and, more particularly, the use of the graphics layer to emphasize or deemphasize video layer objects. There is simply no overlaying of video and graphics layers of the program guide disclosed within Schein. Thus, Schein cannot perform the claimed emphasis/deemphasis function.

The Examiner further contends that the graphics layer and video layers in fact are overlayed as illustratively shown in FIG. 16B, such that the video image may be emphasized or deemphasized based on whether it is in the forefront. The Applicants respectfully disagree with this conclusion of the teaching of Schein.

Specifically, "Clicking on the remote control device automatically causes a program InfoMenu 530 to pop up on a portion of the television screen 532 (see FIG. 17B). Program InfoMenu 530 may allow the viewer to obtain more information about the currently tuned program, move to contextual linked services, or exit InfoMenu 530 back to the television show." (See Schein, column 22, lines 22-44.) That is, the InfoMenu of FIG. 17B is nothing more than a graphical pop-up window.

Moreover, the shaded area at 530, as shown in FIG. 16B, does not teach or suggest that a graphical layer is, in fact, emphasizing a video layer. That is, nowhere in the Schein reference is there any teaching or even suggestion that the graphics layer selectively provides emphasis and deemphasis of at least one object in the video layer of the program guide. There is no disclosure whatsoever in the Schein reference that the program InfoMenu 530 interacts with any portion of the video layer in which any object within the video layer may be emphasized or deemphasized. Thus, the Schein reference is completely silent with regard to the composition of the program guide.

By contrast, the Applicants have defined their program guide as comprising two distinct layers. The first layer is a video layer provided from the service provider equipment to the subscriber equipment. This video layer includes video objects, which may be selected by a user when presented on the subscriber equipment. The second layer of the Applicants program guide is a graphics layer, which may be asserted by a user to selectively emphasize or deemphasize one of the objects in the video layer of the Applicants' program guide. Thus, the Schein reference fails to teach or suggest the Applicants' invention as a whole.

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Furthermore, the Zdepski reference fails to bridge the substantial gap as between the Schein reference and the Applicants' invention. In particular, the Zdepski reference discloses that "interactive program source 58 is a source of interactive program information used to control, for example, operations of a set-top box. The interactive program source 58 may be formed by a flow manager and server including a plurality of interactive programs contained in mass storage, such as a disk array. The interactive programs contained in mass storage may be installed from floppy disks, from tape storage, or through remote downloading, among other mechanisms." (See, Zdepski, col. 5, lines 31-41).

Zdepski further discloses that "data input unit 66 provides an interface for interactive program information conveyed from interactive program source 58 to AVI transmission unit 66. Data input unit 66 may temporarily buffer interactive program information until AVI transmission unit 68 can receive the information. Similar to the output of A-V compression unit 64, interactive program information provided from data input unit 66 is packetized into fixed bit-length packets, with a header associated with each for identification." (See, Zdepski, col. 6, lines 3-11)

In other words, the Zdepski reference merely discloses combining a television signal with interactive program data, where the television signal is received from a remote source and the interactive program data is injected into the television signal at the broadcast station. Nowhere in the reference is there any teaching or suggestion that the interactive program information is anything but data. That is, nowhere in the reference is there any teaching or suggestion that the interactive program comprises a video layer and a graphics layer. Rather, Zdepski merely discloses that the interactive program comprises data programs.

Even if the two reference could be operably combined, the combination would merely disclose providing television schedule information to a viewer, where the television schedule comprises program data that allows the viewer to search and select and interact with information in the television schedule. Thus, the combined teachings of Schein and Zdepski are completely different from the Applicants' invention, since the combination fails to teach or suggest a program guide comprising a video layer having

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at least one user selectable object and a graphics layer of said program guide, where the graphics layer selectively provides emphasis and de-emphasis of said at least one user selectable object in the video layer of said program guide. That is, the combined references fail to teach, or even suggest the two distinct layers, i.e., the graphic and video layers, of the Applicants' program guide. Therefore, the combined references fail to teach or suggest the Applicants' invention as a whole.

As such, the Applicants submit that claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Likewise, independent claim 16 recites similar limitations as recited in independent claim 1. As such, and for at least the same reasons as discussed above, the Applicants submit that independent claim 16 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-5, 8-15, and 20-33 respectively depend from independent claims 1 and 16 and recite additional limitations thereof. As such, and for at least the same reasons discussed above, the Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejections be withdrawn.

B. Claims 6-7 and 17-19

The Examiner rejected claims 6-7 and 17-19 as being obvious under 35 U.S.C. §103 over Schein in view of Zdepski and Blonstein et al. (U.S. Patent No. 6,016,144, issued January 18, 2000, hereinafter "Blonstein"). The Applicants respectfully traverse the rejection.

Claims 6 and 7 and 17-19 respectively depend from independent claims 1 and 16, and recite additional limitations thereof. For example, dependent claim 6, when combined with independent claim 1, recites in part:

" A program guide for an interactive information distribution system having provider equipment and subscriber equipment comprising:
a video layer of said program guide having at least one user selectable object, said video layer sent from said provider equipment to said subscriber equipment; and

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a graphics layer of said program guide, where the graphics layer selectively provides emphasis and de-emphasis of said at least one user selectable object in the video layer." (emphasis added).

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. *Jones v. Hardy*, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). The combination of Schein, Zdepski, and Blonstein fails to teach or suggest the Applicants' invention as a whole.

As discussed above, the combination of the Schein and Zdepski fails to teach or suggest "the program guide comprising a video layer having at least one user selectable object and a graphics layer of said program guide, where the graphics layer selectably provides emphasis and de-emphasis of said at least one user selectable object in video layer of said program guide. Therefore, the combined teachings of Schein and Zdepski fail to teach or suggest the Applicants' invention as a whole.

Furthermore, the Blonstein reference fails to bridge the substantial gap as between the Schein and Zdepski references, and the Applicants' invention. In particular, Blonstein discloses a graphical user interface (GUI) to produce a multilayered graphical presentation. Specifically, the Blonstein arrangement utilizes a graphics processing engine to generate two graphics planes including, in one mode of operation, a transparent layer which exposes graphical buttons produced in a lower graphics layer. However, the Blonstein reference does not teach or suggest a video layer of the program guide, nor does it teach or suggest a video layer in which video objects are emphasized or deemphasized by a graphics layer of the same program guide. Rather, Blonstein is entirely directed towards graphics processing within the context of a graphical user interface, and not to a mixed video and graphics layer processing as claimed by the Applicants in claim 6.

Further, as noted by the Examiner, "Schein et al. does not specifically show the masking and revealing an object." The Applicants agree with this, since such masking and revealing require a masking layer. However, to the extent that Schein shows any

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changing of opacity and emphasis of an object, such object comprises a graphics region object and not a video region object, and certainly not a video layer object. Moreover, Zdepski merely discloses combining data representing an interactive program associated with a television signal (see Zdepski, col. 6, lines 3-15).

Blonstein does show masking and revealing of a lower graphics layer object using a higher graphics layer. However, there is no teaching or suggestion of using a video layer, and certainly no teaching or suggestion of masking and revealing video layer objects of the program guide by a graphics layer of the very same program guide.

Thus, the Schein, Zdepski, and Blonstein arrangements, either singly or in any allowable combination, fail to disclose or suggest a program guide comprising a video layer and a graphics layer, or the emphasis/deemphasis (or masking/revealing) of a video layer object using a graphics layer. The references are directed to graphics region (Schein) or layer (Blonstein) processing only and do not teach or suggest the claimed invention. Therefore, the Applicants submit that claims 6-7 and 17-19, as they now stand, fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the Applicants respectfully request that the rejection be withdrawn.

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CONCLUSION

Thus, the Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg or Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,



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